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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/936,721	12/19/2001	Helmut Wassermann	HAMMON-002	1611	
530	7590 09/21/2005		EXAMINER		
LERNER, DAVID, LITTENBERG,			PRONE, CHRISTOPHER D		
KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST			ART UNIT	PAPER NUMBER	
WESTFIELD, NJ 07090			3738		
•			DATE MAILED: 09/21/200	DATE MAILED: 09/21/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

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a). 7 CFR 1.121(d). n PTO-152.	
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provision of 37 CPR 1.18(a), he overth, however, may a reply be timely filed.  If NO period for reply is expected above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  Failurs to report which the set or canded operiod for reply will, by statics, cause the application to become APANDODE (30 LS, £ 13).  Any prely received by the Office later than the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication, even if timely filed, may reduce any scenared patient term algorithment. Set 37 CPR 1.76(a).  Status  1) Responsive to communication(s) filed on 11 July 2005.  2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accoordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 29.67 and 68 is/are pending in the application.  4) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) 29.67 and 68 is/are rejected.  7) Claim(s) is/are objected to.  8) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10 The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  10 Explain may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.85(a).  11 Certified copies of the priority documents have been received in Application No.  2 Certified copies of t		Application No.	Applicant(s)				
Christopher D. Prone 3738  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  If NO period for reply is specified above, the monitrum statutory period will septy and will agains \$10,00 MONTHS from the mailing date of this communication.  If NO period for reply is specified above, the monitrum statutory period will apply and will agains \$10,00 MONTHS from the mailing date of this communication.  Failure to reply with the soft or extended period for reply in specified above, the monitrum statutory period will apply and will agains \$1,00 MONTHS from the mailing date of this communication.  Failure to reply with the soft or extended period for reply with petialute, master the supplied to the terminating date of this communication.  Failure to reply with the soft or extended period for reply with petialute, manager and the specification.  Status  1) Responsive to communication(s) filed on 11 July 2005.  2a) This action is FINAL.  2b) This action is non-final.  3) Ence this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 29.67 and 68 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  5) Claim(s) 29.67 and 68 is/are rejected.  7) Claim(s) is/are allowed.  6) Claim(s) 29.67 and 68 is/are rejected.  7) Claim(s) 29.67 and 68 is/are rejected.  7) Claim(s) 29.67 and 68 is/are rejected.  7) Claim(s) 29.67 and 68 is/are rejected.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Application Papers  9) The drawing(s		09/936,721	WASSERMANN ET AL.				
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WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Elements of time may be available under the provisions of 3 CPR 1.136(a), he no event, however, may a reply be limbly filed after SX (6) MONTHS from the mailing date of this communication.  FIND provide may be available under the provisions of 3 CPR 1.136(a), he no event, however, may a reply be limbly filed after SX (6) MONTHS from the mailing date of this communication.  FIND provide may be available under the provide may be supplied to the scale ANADONED 13 U.S.C. § 133).  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any examel patient term department. See 37 CFR 1.704(b).  Status  1) Responsive to communication(s) filed on 11 July 2005.  2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 29.67 and 68 is/are pending in the application.  4a) Of the above claim(s) is/are endowed.  5) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  7) Claim(s) is/are allowed.  7) Claim(s) is/are objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Application Papers  9) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some c) None of:  1) Certified copies of the priority documents have been received in Application No.  3) Copies of the certified copies of the priority documents have been received in Application No.  4) Capies of the certified copies of the priority documents have been received.  1) Motice of References Cited (PTO-882)  3) Motice of Direct	The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address				
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#### **DETAILED ACTION**

### Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 29, 67, and 68 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The ranges amended within the claims are refined in a manner that is not shown in any drawing or described in the specification. The original ranges were described in the specification in paragraphs [0064] and [0065] on pages 13 and 14. However the refined ranges that narrow the ranges are not supported.

# Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29, 67, 68, are rejected under 35 U.S.C. 102(b) as being anticipated by Guiset (USPN 4,044,401).

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With reference to Figure 1, Guiset discloses an artificial urinary diversion system comprising a urinary bladder 1 having an axial direction that can be comprised of three portions. The first portion is considered to be the lowest point in the area of reference numeral 20, the second portion is in the middle in the area of reference numeral 5 and the third portion is the top-most portion in the area of reference numeral 30. The first and second portions are smaller in cross-section than the upper portion of the device. The first portion comprises an outlet 4 and sphincter mechanism 18 for opening and closing said at least one outlet to expel liquid contained within chamber 1. The third portion comprises inlet 3 and sphincter mechanism 17 for opening and closing the sphincter. The third portion comprises a second inlet in the area of reference numeral 28. The sphincter mechanism can comprise an anti-reflux valve such as a Bjork type valve or a STARR-valve and may be made in a ring-like shape (3:1-24). The first, second and third portions are formed integrally. The device disclosed by Guiset inherently has a three-dimensional shape capable of containing a volume of fluid and therefore would have a plurality of cross-sectional areas if divided up into portions.

The device disclosed by Guiset may also have a cylindrical shape (4:59-66) and therefore would suit the function recited in claim 29 if the values for  $a_1$ - $a_6$  were all equal to zero. The cylinder would have a first outline having a shape of a straight line in the plane parallel to the longitudinal direction. The other side of the cylinder would provide a second outline having a shape of a straight line in the plane parallel to the longitudinal direction.

## Response to Arguments

Applicant's arguments with respect to claims 29, 67, and 68 have been considered but are moot in view of the new ground(s) of rejection.

The arguments are not persuasive because they all rely around amendments that contain new subject matter. In addition to the new grounds for rejection the rejection mailed on 1/24/05 is still considered valid because even if the number cannot be zero it is inherent that the numbers can be almost zero. The numbers could be infinitely small wherein they would equate the same as zero. This value is more realistic that zero because no man made objects are perfect. All surfaces when amplified under microscopes have rough and uneven surfaces.

### Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Prone whose telephone number is (571) 272-6085. The examiner can normally be reached on Monday Through Fri 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher D Prone Examiner Art Unit 3738

*G*р. CDP

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